



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4794 OF 2025

1. Dr. Nikhil Shah
2. Suresh Wadhwa
3. Vijay Bijlani
4. Christine Rebelo
5. Sheetal Chavan

....*Petitioners*

: *Versus* :

1. The Pune Cantonment Board
2. The Pune Municipal Corporation
3. The Maharashtra Pollution Control Board
4. The Collector,
Pune District, Collector's office, Pune 411 00.
5. The State of Maharashtra

....*Respondents*

WITH
PUBLIC INTEREST LITIGATION NO. 75 OF 2022

1. Hadapsar Industries Association
2. St. Patricks' Town Co-Op. Society Ltd.

.... *Petitioners*

: *Versus* :

1. The Pune Cantonment Board
2. The Pune Municipal Corporation
3. The Maharashtra Pollution Control Board
4. The Collector,
Pune District, Collector's office, Pune 411 00.
5. The State of Maharashtra

....*Respondents*

Mr. C. D. Nargolkar i/b Mr. Niranjan Mogre, for Petitioner in Writ
Petition No. 4794/2025.

Mr. Vijay Upadhyay with Ms. Asha Kanzaria, for Petitioner in Public
Interest Litigation No. 75/2022.

Mr. Tushad Kakalia with Mr. Sandeep Goyal i/b Mulla & Mulla & Craigie Blunt & Caroe, for Respondent No. 1 in both Petitions.

Mr. Rajdeep Khadapkar, for Respondent No. 2 in both Petitions.

Ms. Nidhi Chauhan with Mr. Akshay Naidu i/b Mr. Vishwanath Patil, for Respondent No. 3-MPCB in Writ Petition No. 4794/2025.

Mr. Sachindra B. Shetye with Mr. Nipun Sawane & Mr. Akshay Pansare, for Respondent No. 3-MPCB in Public Interest Litigation No. 75/2022.

Mrs. Neha S. Bhide, Government Pleader with Mr. O. A Chandurkar, Additional Government Pleader and Mrs. Gauri R. Raghurwanshi, AGP for Respondent No. 4 & 5-State in both Petitions.

**CORAM : ALOK ARADHE, CJ. &
SANDEEP V. MARNE, J.**

JUDGMENT RESERVED ON : 28 JULY 2025.

JUDGMENT PRONOUNCED ON : 5 AUGUST 2025.

JUDGMENT :- (Per Sandeep V. Marne, J.)

A. THE CHALLENGE

1) These two petitions challenge use of the land at Hadapsar Industrial Estate, Pune by Pune Cantonment Board and Pune Municipal Corporation for processing of solid waste generated in their areas. The Petitioners allege that the land is being used for dumping of solid waste, which emanates toxic and foul smell and polluted air affecting residents in nearby buildings. Petitioners therefore pray for a direction for shifting of the activities at the land to some other location outside the Pune City limits.

2) Public Interest Litigation No.75 of 2022 is filed by Hadapsar Industries Association and St. Patricks' Town Co-operative Society Ltd. seeking discontinuation of garbage activities at the concerned land and for shifting the same to a permanent alternative land. A declaration is sought that the land is not suitable for garbage activities as per Solid Waste Management Rules, 2016 (**SWM Rules, 2016**) and also in terms of the State Government order dated 11 September 2018.

3) Writ Petition No. 4794/2025 is filed by five senior citizens residing in Sopan Baug area of Pune City complaining about daily toxic, foul odor and extremely polluted air emanating for about six hours in a day from two garbage depots operated by Pune Cantonment Board and Pune Municipal Corporation at the concerned land. They have sought prayer for shifting of the entire garbage activities from the said land to a location outside the city limits.

B. FACTS

4) Pune Cantonment Board (**PCB**), also known as Pune Camp, an affluent area in Pune metropolitan city, which is a military Cantonment located in Pune. It was established in the year 1817 for accommodating the troops of British Indian Army. The Cantonment houses many military establishments. The cantonment area is divided into 8 wards and looks after various needs of citizens and acts like a local body within its jurisdiction. The Board has been constituted under the provisions of the erstwhile Cantonment Act, 1924 which is succeeded by Cantonment Act, 2006. The overall municipal

administration of notified area is in the functioning of Cantonment Board under the Act of 2006.

5) The land bearing Survey No.120-298, Hadapsar Industrial Estate, Pune-411 013 admeasuring roughly about 28 acres (**the land**) is being used by PCB for the last several years, and if the Affidavit of PCB is to be believed, for the last 100 years, as a garbage depot. Accordingly, to the PIL Petitioners, the dump site land is not owned by PCB, but it is occupying the land in capacity as mere 'lessee holding over'. It appears that Suit No.2/1998 was filed by 61 persons claiming to be the owners of the land and seeking eviction of PCB. It appears that the suit came to be dismissed sometime in the year 2009 and appeal against the said decree is apparently pending.

6) Hadapsar Industrial Estate Environmental Group filed Writ Petition (PIL) No. 96/1999 for shifting of the dump site outside the limits of Pune City. Writ Petition No. 96/1999 came up for hearing before the Division Bench of this Court and by judgment and order dated 20 July 2016, this Court issued series of directions, *inter-alia*, directing the Secretary of Urban Development Department (**UDD**) of the State Government to decide whether the land is suitable within the meaning of Rules 11 and 12 of Schedule-I of the SWM Rules, 2016, after affording opportunity of hearing to the Petitioner therein, as well as to PCB/PMC etc. It was also directed that if the site had already exceeded its capacity, the same be closed down. If the land was found to be suitable for use as garbage dump, continuation of such use was directed to be strictly in accordance with the provisions and SWM Rules, 2016. The Maharashtra Pollution Control Board (**MPCB**) was directed to monitor the facility

of garbage dump site and to ensure compliance with the conditions of authorization.

7) The order passed in Writ Petition No. 96/1999 was challenged by the Petitioners therein before the Supreme Court by filing Special Leave to Petition No. 12529/2018, which came to be dismissed by order dated 18 May 2018 after recording statement on behalf of the Petitioners therein that the Petitioners would file Contempt Petition in this Court. Accordingly, the Contempt Petition (St.) No. 16292/2018 was filed in this Court. In the meantime, MPCB granted renewal of authorization in respect of the site on 16 July 2018. The State Government arranged for a site visit on 7 August 2018 in presence of officials of PCB, MPCB and Petitioners.

8) Towards implementation of the order passed by this Court in Writ Petition No. 96/1999, Secretary, UDD passed order dated 11 September 2018 holding that the land is suitable for use for processing of the municipal solid waste. However, directions were issued for stopping use of the land dumping of garbage. The garbage already dumped in the area admeasuring 18 acres was directed to be disposed off by scientific method. Direction was issued for use of 10 acres land for composting (vermiculture manure project and pit composting) out of the wet garbage. In para-6 of the order, the Secretary, UDD observed that PCB shall look for alternative site in view of rapid development of the area adjoining the dump site.

9) The Petitioners in PIL No. 75/2022 addressed representations for shifting of the dump site in pursuance of order passed by the Secretary, UDD. However, they allege that no action

was taken, PIL Petition No. 75/2022 is filed seeking following prayers :-

a) This Hon'ble Court may be pleased to issue a writ of Mandamus or any other Writ or Direction and direct the Pune Cantonment Board not to continue with its Garbage activities in the dump site land at Hadapsar Industrial Estate with effect from 10/09/2019 or W.E.F. 01/01/2020, in terms of para 6 of the State Govt. Order dated 11/09/2018, at Exh. N to the Petition;

b) This Hon'ble Court may be pleased to issue a Writ of Mandamus or any other Writ or Direction and direct the Pune Cantonment Board to find out and fix a permanent alternative land in its own area or any other area or any other area as may be allotted by the Defense Estate Officer' within a period of next three months from the date of the Order and to shift the entire garbage activity from the present 22 acre land in terms of the state Govt. order dated 11/09/2018 and para 6 therein at Exh. N to the Petition :

c) This Hon'ble Court may be pleased to issue a Writ of Mandamus or any other Writ, Order and direct the Pune Cantonment Board that this dump site land at Hadapsar industrial Estate, Pune-13, is not a suitable land for any garbage activities as per the SWM Rules 2016 and also in terms of the State Govt. Order dated 11/09/2018 and para 6.

d) Pending the hearing and final disposal of this Petition, this Hon'ble Court be pleased to grant Stay on the Pune Cantonment Board's construction of Metal Structure/shade or Starting any new plant for garbage processing or dumping of daily garbage or any new garbage activity at the present dump-site land;

e) Pending the hearing and final disposal of this Petition, this Hon'ble Court be pleased to grant stay on the renewal of any 'Authorisation' in favour of Cantt. by the Mah. Pollution Control Board, Pune (MPCB) after 01/01/2020 without the specific permission from this Hon'ble Court'.

f) Pending the hearing and final disposal of this Petition, this Hon'ble Court be pleased to direct the PMC and the Cantt. to jointly work out a plan so that the Cantt. can hand over its existing and daily Garbage through its own vehicles to the PMC at the vehicle transfer ramp of the PMC at this dump-site and the full cost of garbage transport and scientific disposal thereof shall be paid by the Cantt to the PMC, till further orders.

g) Pending the hearing and final disposal of this Petition, this Hon'ble Court be pleased to restrain the Pune Cantonment Board

from using this dump-site for its garbage activities at the Hadapsar Industrial Estate, Pune’.

h) This Hon’ble Court may be pleased to award Compensatory Costs of this Petition to be paid by the Pune Cantonment Board to the Petitioner;

i) Any such further and other reliefs as this Hon’ble Court may deem fit and proper in the facts and circumstances of the matter, be granted to the Petitioner in the interest of justice.

10) During pendency of PIL No. 75/2022, Writ Petition No. 4794/2025 is filed by five residents of Sopan Baug area in Pune city seeking following prayers :-

A) This Hon’ble Court may be pleased to issue a Writ of Mandamus or any other Writ or Direction in the nature of Writ of Mandamus and direct the Pune Cantonment Board (**PCB**) to shift its entire garbage activities from the present 28 Acres land at Pune 411 013, to any other site in its own land area within a short period, as deemed fit and proper by this Hon’ble Court ;

B) This Hon’ble Court may be pleased to issue a Writ of Mandamus or any other Writ or Direction in the nature of Writ of Mandamus and direct the Pune Municipal Corporation (PMC) to shift its entire garbage activities from the present about five Acres land at Pune 411 013, to any other site, out of the Pune city limits, within a short period as deemed fit and proper by this Hon’ble Court ;

C) Pending the hearing and final disposal of this Petition, this Hon’ble Court be pleased to direct the Respondent No. 5 to visit the dump-sites at Pune 411 013 in 30 days time or as deemed fit by this Hon’ble Court, with all the Respondents and Petitioners and conduct detail inspection, analysis and enquiry into remedies possible to stop the present Air Pollution activities by the PCB and the PMC and submit the said Enquiry Report in this Petition, to this Hon’ble Court :

D) Pending the hearing and final disposal of this Petition, this Hon’ble Court be pleased to grant ex-parte ad-interim relief in terms of prayer clause C) of the Petition ;

E) This Hon’ble Court be pleased to grant Compensatory Costs of this Petition payable by the Respondent Nos. 1 and 2 to the Petitioners herein;

F) Any such further and other reliefs as this Hon'ble Court may deem fit and proper in the facts and circumstances of the matter, be granted.

11) Since the subject matter of both the petitions is same, they are taken up for analogous hearing.

C. SUBMISSIONS

12) Mr. Nargolkar, the learned counsel appearing for the Petitioners in Writ Petition No. 4794/2025 would submit that operation of dump site by PCB and PMC at the land in question is in gross violation of order passed by this Court in Writ Petition No. 96/1999 and order dated 11 September 2018 passed by the Secretary, UDD. That in pursuance of order passed by this Court in Writ Petition No.96/1999, Secretary, UDD has found that the concerned land is not suitable for use as dump site/garbage processing. Relying on directions in para-6 of the order dated 11 September 2018, it is contended that direction has been issued to shift the dump site at an alternate land. That despite passage of more than 6 and half years, PCB has failed to take any steps for identification of alternate site as directed in para-6 of the order dated 11 September 2018. He would invite our attention to the photographs of the site to demonstrate as to how heaps of garbage are still lying at the concerned site. He would submit that the site is still being used both by PCB and PMC for dumping of garbage. That everyday toxic and foul smell and polluted air emanates atleast every six hours from 10.00 a.m. till the evening from the two garbage depots operated by PCB and PMC forcing the residents in nearby locations to live with windows shut all the time. That operation of garbage depots is giving rise to respiratory

diseases amongst the residents damaging various organs of human body. That senior citizens, who are at home for whole day, suffer the most. That PCB has authorised PMC to use part of the dump site for treating its own municipal solid waste. That instead of PCB shifting the dump site to a suitable alternate location, it has permitted PMC to process its solid waste. That the dumping site is 6 to 8 kms. away in direct line from Pune-Lohegaon Airport and use thereof is illegal under Rule 91 of Aircraft Rules, 1937 read with Section 2(qq) and Section 10(1A) of the Aircraft Act, 1934 as the site is within 10 kms radius from Aerodrome Reference Point. That there is every possibility of air accidents due to birds striking in future. That open area garbage dump site attracts several birds posing threat to the air operations at Pune-Lohegaon Airport. That dumpsite is surrounded by many residential societies and food industries. That the dump site is not a suitable land under the provisions of Rules 11 and 12 of Schedule I of SWM Rules, 2016. That the dump site has exceeded its capacity. That no steps are taken by PCB for location of alternate land outside the city limits. He would therefore pray for direction to shut down use of the land as garbage dump site.

13) Mr. Upadhyay, the learned counsel appearing for the Petitioners in Public Interest Litigation No. 75/2022 would submit that the issue of shifting of the dump site has already attained finality in view of the order dated 20 July 2016 passed in PIL No. 96/1999. That Secretary, UDD has directed closure of the dumping site with further directions to locate permanent alternate site within one year. The said directives of the Secretary, UDD are violated with impunity as the land is still being used as garbage dump site. That the direction in para-6 of Secretary's order is in consonance with the provisions of

Rule 11(f) of the SWM Rules, 2016. That even today, there are heaps of garbage forming mountain shapes of 40 ft height showing that maximum capacity has already been achieved. That operation of the dump site is leading to irreversible damage to the environment and causing severe health hazards to the population residing in the vicinity. That the development plan for Pune City made by PMC does not identify such land as dump site and the same is shown as industrial plot, which again is a ground for discontinuance of land use as garbage dump site. That PMC is illegally using the land as processing unit contrary to its development plan. He would accordingly pray for direction for shutting the garbage dump site by shifting the same to alternate location.

14) Mr. Kakalia, the learned counsel appearing for the Respondent No.1 would oppose the petitions submitting that the order passed by the Secretary, UDD on 11 September 2018 has held that the land is suitable for use as solid waste processing. That MPCB has issued letter of authorization for use of the land for garbage processing and the same is renewed from time to time. That use of the land for garbage processing by PCB is strictly in accordance with the order dated 11 September 2018 passed by the Secretary, UDD. That neither this Court nor Secretary, UDD has directed shifting of the garbage depot to any other location. That previously filed petition directed Secretary, UDD to decide whether land is suitable for being used as garbage depot and Secretary, UDD has not been directed shifting of the said depot to any other location. That therefore Petitioners cannot be permitted to file another set of petitions seeking the same relief as was sought in Writ Petition No. 96/1999. He would invite our attention to the Affidavit in Reply filed in Public

Interest Litigation to demonstrate as to how effective steps are taken by PCB for operation of garbage processing plant at the site in association with PMC. That the said activity is being carried out strictly in accordance with the provisions of SWM Rules, 2016. He would submit that there is no direction by Secretary, UDD for shifting of the depot to any other location. That even if the direction in para-6 for exploration of another site is to be considered mandatory, it is the responsibility of the State Government under Rule 11(f) of SWM Rules, 2016 to make available suitable site for processing of garbage by PCB. He would submit that both the petitions do not seek implementation of order passed by the Secretary, UDD on 11 September 2018 but seek shifting of the depot contrary to the said order. He would accordingly pray for dismissal of the petitions.

15) Mr. Khadapkar, the learned counsel appearing for PMC would oppose the petitions submitting that out of the total land admeasuring 28 acres, land admeasuring 5 acres is being used jointly by PCB and PMC for operation of garbage processing plant where the activity of processing of the garbage is carried out in a scientific manner. That PMC has 15 wet waste processing plants at different locations in the City which generates 2400 metric tons municipal solid waste. That PMC does not undertake activity of dumping of waste at Hadapsar plant. That daily generation of waste in the area adjoining Hadapsar plant is about 800 metric tons divided into 600 metric tons of dry waste and 200 metric tons of wet waste. That PMC operates wet waste processing facility such as Waste Transfer Station, Dry Waste Processing Plant and Composting Plant. That PMC has taken adequate measures for effective control of dust, air pollution

and related issues in compliance with SWM Rules, 2016. That the Corporation is taking steps for enclosure of the composting plant which is presently partially open. That steps are taken for erection of fogging/misting system for the purpose of odour control. The height of the boundary wall is proposed to be increased from 12 feet to 16 feet with a view to arrest the odour emanating from the composting process. That these steps will also diminish the possibility of birds hovering over the site. He would accordingly pray for dismissal of both the petitions.

16) Ms. Bhide, the learned Government Pleader appearing for Respondent-State would also oppose the petitions. She would invite our attention to the order passed by the Secretary, UDD on 11 September 2018 and submit that necessary steps are directed to be implemented by the State Government for arresting health hazards emanating out of the dumping site. That it is the duty of the local body under Rule 11 of SWM Rules, 2016 to provide for suitable site for dumping and processing of garbage. She would accordingly pray for dismissal of the petitions.

17) Rival contentions of the parties now fall for our consideration.

D. REASONS AND ANALYSIS

18) Management, disposal and processing of municipal solid waste generated within the jurisdictions of urban agglomerations has been a burning problem for last several decades. With a view to curb the hazardous effect of dump sites on the health of residents, the local bodies usually operate dump sites at destinations outside the city

limits. However, as the city limits have expanded over the years, the dump sites which were earlier outside the city limits, got surrounded by residential/commercial/industrial buildings. Increase in human habitation and activities around the dump sites gave rise to demands for shifting of dump sites at alternate locations so as to protect the health of residents around such dump sites. No citizen wants a dump site or a garbage processing plant near their residence. It is a typical '*not in my backyard*' syndrome. The present Petitions arise out of the same syndrome.

19) Complaints by residents of foul smell, toxic gases and polluted air emanating from dump sites and garbage depots present a challenge to the municipal administrations. The older method of dumping the municipal solid waste at the dump sites has proved to be a non-effective mechanism and the modern trend is to process the solid waste in a scientific manner by converting it into reusable materials. The focus is now on segregating the waste and by reusing waste materials such as paper, metal, glass, rubber etc. The wet waste goes for composting. Municipal solid waste processing involves biological treatment methods. Nowadays, waste-to-energy technology is also being increasingly implemented, which helps generation of electricity out of waste. Similarly Compressed Bio Gas (CBG) can also be generated through waste, which can be used as fuel for various purposes including for city transport buses. The construction and demolition waste (C&D waste) can be reused for manufacture of construction products such as bricks, blocks, etc. With advent of modern innovations in solid waste reuse and recycling, there is increasing corporate participation in procurement of solid waste from

the municipal bodies for manufacture of several usable products. *'Trash to Cash'* is the new mantra.

20) While technological advent has been taking place with an increasing pace in waste management field, the municipal administrations across the country still face challenges in handling of large volume of municipal solid waste. As indicated in the Affidavit-in-reply filed by the PMC, 2400 metric tons of solid waste is generated every day in Pune city. The biggest challenge for municipal administrations is to scout for land to undertake waste processing activities. By the time, the waste is ultimately treated, it goes through several processes such as door-to-door collection, transportation, segregation and final treatment. It is not that the entire waste can be treated and reused or recycled. Some portion of the waste is non-usable and is required to be transported and scientifically disposed of at sanitary landfills. For all these processes, use of land is necessary. Though sanitary landfill sites can be located outside city limits, some of the processing plants need to be operated within municipal limits. Considering the ever-increasing boundaries of cities, transportation of waste even to the fringe of city boundaries becomes time consuming. Pune city is currently spread across area of 514 sq kms.¹ and it is not possible that all the waste processing plants can be located only outside city limits. To make a to-and-fro trip outside city limits for a waste transportation vehicle may take several hours. This necessitates operation of some of the waste processing units within city limits. To illustrate, PMC has stated in its Affidavit that it operates 15 wet waste processing units within Pune city.

¹ AREA TAKEN FROM AFFIDAVIT IN REPLY FILED BY PMC

21) Therefore, to expect that all waste processing units must be located outside city limits is something, which is difficult to achieve in respect of large sized urban agglomerations. Petitioners' prayer for shifting of Hadapsar garbage depot outside city limits needs to be considered in the light of this difficulty in efficient waste handling goal of municipal administration.

22) We now proceed to examine the statutory framework governing solid waste management activities.

D.1 STATUTORY FRAMEWORK GOVERNING SOLID WASTE MANAGEMENT

23) Under Section 3 of the Environment (Protection) Act, 1986 (**the Act**), the Central Government is empowered to take necessary measures for the purpose of protecting and improving the quality of the environment and for preventing, controlling and abating the environment protection. Sub-section (2) of Section 3 of the Act enumerates the matters in respect of which measures can be taken by the Central Government under sub-section (1). Section 6 of the Act empowers the Central Government to make rules in respect of the matters referred to in Section 3. Section 25 of the Act empowers the Central Government to make rules for carrying out the purposes of the Act.

24) In exercise of powers conferred under Sections 3, 6 and 25 of the Environment (Protection) Act, 1986, the Central Government through the Ministry of Environment, Forest and Climate Change, notified Municipal Solid Waste (Management and Handling) Rules, 2000. The 2000 Rules governed the area of solid

waste management for about 16 years and came to be superseded and substituted by the Solid Waste Management Rules, 2016. The SWM Rules of 2016 apply to every urban local body, defense establishments etc. Rule 3(20) defines the term ‘dump sites’ to mean land utilized by a local body for disposal of solid waste without following the principles of sanitary land filling. The term ‘sanitary land fill’ has been defined under Rule 3(40) as under :-

40. “sanitary land filling” means the final and safe disposal of residual solid waste and inert wastes on land in a facility designed with protective measures against pollution of ground water, surface water and fugitive air dust, wind-blown litter, bad odour, fire hazard, animal menace, bird menace, pests or rodents, greenhouse gas emissions, persistent organic pollutants slope instability and erosion;

25) The term ‘solid waste’ is defined under the provisions of Rule 3(46) as under:-

46. “solid waste” means and includes solid or semi-solid domestic waste, sanitary waste, commercial waste, institutional waste, catering and market waste and other non residential wastes, street sweepings, silt removed or collected from the surface drains, horticulture waste, agriculture and dairy waste, treated bio-medical waste excluding industrial waste, bio-medical waste and e-waste, battery waste, radio-active waste generated in the area under the local authorities and other entities mentioned in rule 2;

26) Rule 11 of the SWM Rules, 2016 provides for duties of Secretary, UDD in the States and Union Territories and provides thus:-

11. Duties of the Secretary–in-charge, Urban Development in the States and Union territories.-

(1) The Secretary, Urban Development Department in the State or Union territory through the Commissioner or Director of Municipal Administration or Director of local bodies shall,-

- (a) prepare a state policy and solid waste management strategy for the state or the union territory in consultation with stakeholders including representative of waste pickers, self help group and similar groups working in the field of waste management consistent with these rules, national policy on solid waste management and national urban sanitation policy of the ministry of urban development, in a period not later than one year from the date of notification of these rules;
- (b) while preparing State policy and strategy on solid waste management, lay emphasis on waste reduction, reuse, recycling, recovery and optimum utilisation of various components of solid waste to ensure minimisation of waste going to the landfill and minimise impact of solid waste on human health and environment;
- (c) state policies and strategies should acknowledge the primary role played by the informal sector of waste pickers, waste collectors and recycling industry in reducing waste and provide broad guidelines regarding integration of waste picker or informal waste collectors in the waste management system.
- (d) ensure implementation of provisions of these rules by all local authorities;
- (e) direct the town planning department of the State to ensure that master plan of every city in the State or Union territory provisions for setting up of solid waste processing and disposal facilities except for the cities who are members of common waste processing facility or regional sanitary landfill for a group of cities; and
- (f) ensure identification and allocation of suitable land to the local bodies within one year for setting up of processing and disposal facilities for solid wastes and incorporate them in the master plans (land use plan) of the State or as the case may be, cities through metropolitan and district planning committees or town and country planning department;
- (h) direct the town planning department of the State and local bodies to ensure that a separate space for segregation, storage, decentralised processing of solid waste is demarcated in the development plan for group housing or commercial, institutional or any other non-residential complex exceeding 200 dwelling or having a plot area exceeding 5,000 square meters;
- (i) direct the developers of Special Economic Zone, Industrial Estate, Industrial Park to earmark at least five percent of the total area of the plot or minimum five plots or sheds for recovery and recycling facility.
- (j) facilitate establishment of common regional sanitary land fill for a group of cities and towns falling within a distance of 50 km (or more) from the regional facility on a cost sharing basis and ensure professional management of such sanitary landfills;
- (k) arrange for capacity building of local bodies in managing solid waste, segregation and transportation or processing of such waste at source;
- (l) notify buffer zone for the solid waste processing and disposal facilities of more than five tons per day in consultation with the State Pollution Control Board; and

(m) start a scheme on registration of waste pickers and waste dealers.

27) Thus, under Rule 11(f) of the SWM Rules, 2016 the Secretary, UDD, through the commissioner or director of municipal administration or a director of a local body, must ensure identification and allocation of suitable land to the local bodies for setting up of processing and disposal facilities for solid wastes and to incorporate them in the master plans.

28) Rule 15 of the SWM Rules deals with duties and responsibilities of local authorities and village panchayats and provides thus :-

15. Duties and responsibilities of local authorities and village Panchayats of census towns and urban agglomerations.-

The local authorities and Panchayats shall,-

- (a) **prepare a solid waste management plan** as per state policy and strategy on solid waste management within six months from the date of notification of state policy and strategy and submit a copy to respective departments of State Government or Union territory Administration or agency authorised by the State Government or Union territory Administration;
- (b) **arrange for door to door collection of segregated solid waste from all households including slums and informal settlements, commercial, institutional and other non residential premises. From multi-storage buildings, large commercial complexes, malls, housing complexes, etc., this may be collected from the entry gate or any other designated location;**
- (c) **establish a system to recognise organisations of waste pickers or informal waste collectors** and promote and establish a system for integration of these authorised waste-pickers and waste collectors to facilitate their participation in solid waste management including door to door collection of waste;
- (d) facilitate formation of Self Help Groups, provide identity cards and thereafter encourage integration in solid waste management including door to door collection of waste;

- (e) frame bye-laws incorporating the provisions of these rules within one year from the date of notification of these rules and ensure timely implementation;
- (f) prescribe from time to time user fee as deemed appropriate and collect the fee from the waste generators on its own or through authorised agency;
- (g) direct waste generators not to litter i.e throw or dispose of any waste such as paper, water bottles, liquor bottles, soft drink cans, tetra packs, fruit peel, wrappers, etc., or burn or bury waste on streets, open public spaces, drains, waste bodies and to segregate the waste at source as prescribed under these rules and hand over the segregated waste to authorised the waste pickers or waste collectors authorised by the local body;
- (h) **setup material recovery facilities or secondary storage facilities with sufficient space for sorting of recyclable materials to enable informal or authorised waste pickers and waste collectors to separate recyclables from the waste and provide easy access to waste pickers and recyclers for collection of segregated recyclable waste such as paper, plastic, metal, glass, textile from the source of generation or from material recovery facilities;** Bins for storage of bio-degradable wastes shall be painted green, those for storage of recyclable wastes shall be printed white and those for storage of other wastes shall be printed black;
- (i) **establish waste deposition centres for domestic hazardous waste and give direction for waste generators to deposit domestic hazardous wastes at this centre for its safe disposal. Such facility shall be established in a city or town in a manner that one centre is set up for the area of twenty square kilometers or part thereof and notify the timings of receiving domestic hazardous waste at such centres;**
- (j) ensure safe storage and transportation of the domestic hazardous waste to the hazardous waste disposal facility or as may be directed by the State Pollution Control Board or the Pollution Control Committee;
- (k) direct street sweepers not to burn tree leaves collected from street sweeping and store them separately and handover to the waste collectors or agency authorised by local body;
- (l) provide training on solid waste management to waste-pickers and waste collectors;
- (m) collect waste from vegetable, fruit, flower, meat, poultry and fish market on day to day basis and promote setting up of decentralised compost plant or bio-methanation plant at suitable locations in the markets or in the vicinity of markets ensuring hygienic conditions;
- (n) collect separately waste from sweeping of streets, lanes and by-lanes daily, or on alternate days or twice a week depending on the density of population, commercial activity and local situation;

- (o) set up covered secondary storage facility for temporary storage of street sweepings and silt removed from surface drains in cases where direct collection of such waste into transport vehicles is not convenient. Waste so collected shall be collected and disposed of at regular intervals as decided by the local body;
- (p) collect horticulture, parks and garden waste separately and process in the parks and gardens, as far as possible;
- (q) transport segregated bio-degradable waste to the processing facilities like compost plant, bio-methanation plant or any such facility. Preference shall be given for on site processing of such waste;
- (r) transport non-bio-degradable waste to the respective processing facility or material recovery facilities or secondary storage facility;
- (s) transport construction and demolition waste as per the provisions of the Construction and Demolition Waste management Rules, 2016;
- (t) involve communities in waste management and promotion of home composting, bio-gas generation, decentralised processing of waste at community level subject to control of odour and maintenance of hygienic conditions around the facility;
- (u) phase out the use of chemical fertilizer in two years and use compost in all parks, gardens maintained by the local body and wherever possible in other places under its jurisdiction. Incentives may be provided to recycling initiatives by informal waste recycling sector.
- (v) **facilitate construction, operation and maintenance of solid waste processing facilities** and associated infrastructure on their own or with private sector participation or through any agency for optimum utilisation of various components of solid waste adopting suitable technology including the following technologies and adhering to the guidelines issued by the Ministry of Urban Development from time to time and standards prescribed by the Central Pollution Control Board. Preference shall be given to decentralised processing to minimize transportation cost and environmental impacts such as
 - a) bio-methanation, microbial composting, vermi-composting, anaerobic digestion or any other appropriate processing for bio-stabilisation of biodegradable wastes;
 - b) waste to energy processes including refused derived fuel for combustible fraction of waste or supply as feedstock to solid waste based power plants or cement kilns;
- (w) **undertake on their own or through any other agency construction, operation and maintenance of sanitary landfill** and associated infrastructure as per Schedule 1 for disposal of residual wastes in a manner prescribed under these rules;
- (x) make adequate provision of funds for capital investments as well as operation and maintenance of solid waste management services in the annual budget ensuring that funds for discretionary functions of the local

body have been allocated only after meeting the requirement of necessary funds for solid waste management and other obligatory functions of the local body as per these rules;

(y) make an application in Form-I for grant of authorisation for setting up waste processing, treatment or disposal facility, if the volume of waste is exceeding five metric tones per day including sanitary landfills from the State Pollution Control Board or the Pollution Control Committee, as the case may be;

(z) submit application for renewal of authorisation at least sixty days before the expiry of the validity of authorisation;

(za) prepare and submit annual report in Form IV on or before the 30th April of the succeeding year to the Commissioner or Director, Municipal Administration or designated Officer;

(zb) the annual report shall then be sent to the Secretary -in-Charge of the State Urban Development Department or village panchayat or rural development department and to the respective State Pollution Control Board or Pollution Control Committee by the 31st May of every year;

(zc) educate workers including contract workers and supervisors for door to door collection of segregated waste and transporting the unmixed waste during primary and secondary transportation to processing or disposal facility;

(zd) ensure that the operator of a facility provides personal protection equipment including uniform, fluorescent jacket, hand gloves, raincoats, appropriate foot wear and masks to all workers handling solid waste and the same are used by the workforce;

(ze) ensure that provisions for setting up of centers for collection, segregation and storage of segregated wastes, are incorporated in building plan while granting approval of building plan of a group housing society or market complex; and

(zf) frame bye-laws and prescribe criteria for levying of spot fine for persons who litters or fails to comply with the provisions of these rules and delegate powers to officers or local bodies to levy spot fines as per the bye laws framed; and

(zg) create public awareness through information, education and communication campaign and educate the waste generators on the following; namely:-

(i) not to litter;

(ii) minimise generation of waste;

(iii) reuse the waste to the extent possible;

(iv) practice segregation of waste into bio-degradable, non-biodegradable (recyclable and combustible), sanitary waste and domestic hazardous wastes at source;

(v) practice home composting, vermi-composting, bio-gas generation or community level composting;

- (vi) wrap securely used sanitary waste as and when generated in the pouches provided by the brand owners or a suitable wrapping as prescribed by the local body and place the same in the bin meant for nonbiodegradable waste;
 - (vii) storage of segregated waste at source in different bins;
 - (viii) handover segregated waste to waste pickers, waste collectors, recyclers or waste collection agencies; and
 - (ix) pay monthly user fee or charges to waste collectors or local bodies or any other person authorised by the local body for sustainability of solid waste management.
- (zh) **stop land filling or dumping of mixed waste soon after the timeline as specified in rule 23 for setting up and operationalisation of sanitary landfill is over;**
- (zi) **allow only the non-usable, non-recyclable, non-biodegradable, non-combustible and non-reactive inert waste and pre-processing rejects and residues from waste processing facilities to go to sanitary landfill** and the sanitary landfill sites shall meet the specifications as given in Schedule-I, however, every effort shall be made to recycle or reuse the rejects to achieve the desired objective of zero waste going to landfill;
- (zj) **investigate and analyse all old open dumpsites and existing operational dumpsites for their potential of biomining and bio-remediation and wheresoever feasible, take necessary actions to bio-mine or bio-remediate the sites;**
- (zk) in absence of the potential of bio-mining and bio-remediation of dumpsite, it shall be scientifically capped as per landfill capping norms to prevent further damage to the environment.

(emphasis and underlining supplied)

29) Thus, under Rule 15(a), it is the responsibility of the local body to prepare a solid waste management plan. Rule 15(b) mandates the local bodies to provide for door-to-door collection of solid waste and sub-Rule (c) provides for setting up a network of waste-pickers. Rules 15(h) and (i) are important provisions, for deciding the issue involved in the Petition, which deal with the duties of local bodies to provide for spaces for recovery, secondary storage and waste disposal centers, which mandates the local bodies to setup material recovery facilities or secondary storage facilities with sufficient space for sorting of recyclable materials to enable informal or authorised waste

pickers and waste collectors to separate recyclables from the waste and provide easy access to waste pickers and recyclers for collection of segregated recyclable waste such as paper, plastic, metal, glass, textile from the source of generation or from material recovery facilities. Under Rule 15 (i), it is the duty of the local bodies to establish waste deposition centres for domestic hazardous waste and give direction for waste generators to deposit domestic hazardous wastes at this centre for its safe disposal. Such facility needs to be established in a city or town in a manner that one centre is set up for the area of 20 sq. kms. or part thereof. Thus as discussed above, the waste disposal centers need to be established not only within the city or town limits but there needs to be one waste disposal unit for every area of 20 sq. kms.

30) Rule 15 (q) of the SWM Rules, 2016 mandates local bodies to transport segregated bio-degradable waste to the processing facilities like compost plant, bio-methanation plant or any such facility by giving preference for on-site processing of such waste. Under Rule 15(r), it is the duty of the local body to transport non-bio-degradable waste to the respective processing facility or material recovery facilities or secondary storage facility. Under Rule 15 (s), the local bodies are entrusted with the duty to transport construction and demolition waste as per the provisions of the Construction and Demolition Waste management Rules, 2016. Under Rule 15 (zh), it is the duty of the local bodies to stop land filling or dumping of mixed waste after the timeline as specified in Rule 23 for setting up and operationalisation of sanitary land filling. Under Rule 15(zi), it is the duty of the local body to allow only bio-non-combustible, and non-

reactive inert waste and pre-processing rejects and residues from waste processing facilities to come into sanitary land fill.

31) Provisions of Rule 15 (zj) of the SWM Rules 2016 are of significance for deciding the present Petitions, which entrusts the local bodies with a duty to investigate and analyse all old open dumpsites and existing operational dumpsites for their potential of bio-mining and bio-remediation and wheresoever feasible, take necessary actions to bio-mine or bio-remediate the sites. Thus, the issue raised in the present Petitions about permissibility of use of the land in Hadapsar Industrial Estate, Pune needs to be decided in the light of provisions of Rule 15 (zj) of SWM Rules, 2016 under which the existing open dumpsites need to be explored for their potential for bio-mining and bio-remediation.

32) Rule 16 of the SWM Rules, 2016 deals with duties of the State Pollution Control Board and provides thus :-

16. Duties of State Pollution Control Board or Pollution Control Committee.-

(1) The State Pollution Control Board or Pollution Control Committee shall,-

- (a) enforce these rules in their State through local bodies in their respective jurisdiction and review implementation of these rules at least twice a year in close coordination with concerned Directorate of Municipal Administration or Secretary-in-charge of State Urban Development Department;
- (b) monitor environmental standards and adherence to conditions as specified under the Schedule I and Schedule II for waste processing and disposal sites;
- (c) examine the proposal for authorisation and make such inquiries as deemed fit, after the receipt of the application for the same in Form I from the local body or any other agency authorised by the local body;
- (d) while examining the proposal for authorisation, the requirement of consents under respective enactments and views of other agencies like the State Urban Development Department, the Town and Country Planning Department, District Planning Committee

or Metropolitan Area Planning Committee, as may be applicable, Airport or Airbase Authority, the Ground Water Board, Railways, power distribution companies, highway department and other relevant agencies shall be taken into consideration and they shall be given four weeks time to give their views, if any;

(e) issue authorisation within a period of sixty days in Form II to the local body or an operator of a facility or any other agency authorised by local body stipulating compliance criteria and environmental standards as specified in Schedules I and II including other conditions, as may be necessary;

(f) synchronise the validity of said authorisation with the validity of the consents;

(g) suspend or cancel the authorization issued under clause (a) any time, if the local body or operator of the facility fails to operate the facility as per the conditions stipulated:

provided that no such authorization shall be suspended or cancelled without giving notice to the local body or operator, as the case may be; and

(h) on receipt of application for renewal, renew the authorisation for next five years, after examining every application on merit and subject to the condition that the operator of the facility has fulfilled all the provisions of the rules, standards or conditions specified in the authorisation, consents or environment clearance.

(2) The State Pollution Control Board or Pollution Control Committee shall, after giving reasonable opportunity of being heard to the applicant and for reasons thereof to be recorded in writing, refuse to grant or renew an authorisation.

(3) In case of new technologies, where no standards have been prescribed by the Central Pollution Control Board, State Pollution Control Board or Pollution Control Committee, as the case may be, shall approach Central Pollution Control Board for getting standards specified.

(4) The State Pollution Control Board or the Pollution Control Committee, as the case may be, shall monitor the compliance of the standards as prescribed or laid down and treatment technology as approved and the conditions stipulated in the authorisation and the standards specified in Schedules I and II under these rules as and when deemed appropriate but not less than once in a year.

(5) The State Pollution Control Board or the Pollution Control Committee may give directions to local bodies for safe handling and disposal of domestic hazardous waste deposited by the waste generators at hazardous waste deposition facilities.

(6) The State Pollution Control Board or the Pollution Control Committee shall regulate Inter-State movement of waste.

33) Thus, the State Pollution Control Boards have been entrusted with the responsibility to enforce the SWM Rule, 2016 within the respective States. The State Pollution Control Board is required to monitor the compliance of the standards as prescribed or laid down and treatment technology as approved and the conditions stipulated in the authorisation and the standards specified in Schedules I and II under SWM Rules, 2016. The State Pollution Control Board is authorised to give directions to local bodies for safe handling and disposal of domestic hazardous waste deposited by the waste generators at hazardous waste deposition facilities.

34) Schedule-I to the SWM Rules, 2016 enumerates the specifications for sanitary land fills. Schedule-II deals with standards of processing and treatment of solid waste and provides for standards for composting, standards for treating leachates and standards for incineration.

D.2 PREVIOUS ROUND OF LITIGATION [WRIT PETITION NO. 96/199]

35) Hadapsar Industrial Estate Environmental Group had filed Writ Petition No. 96/1999 seeking a direction against the PCB to shift the garbage dumping site outside the limits of Pune City. The relief sought in Writ Petition No. 96/1999 is apparent from para-1 of the judgment, which reads thus:-

1. The Petitioners are seeking appropriate directions to the Respondent No.1 Cantonment Board Pune to shift the Hadapsar garbage depot (herein after referred to as the “garbage dump” for short) more popularly known as the Cantonment dumping ground, outside the limits of Pune City.

36) After considering the rival contentions and the provisions of SWM Rules, 2016 the Division Bench held in paras-28 and 29 as under :-

28. The Respondents are bound to undertake the exercise of determining whether the said garbage dump is a suitable site within the meaning of Schedule-I of the said Rules of 2016. The Respondent Nos. 7 & 8 have also to ensure that the criteria for setting up the solid waste disposal facility / composting plant and / or the waste disposal method at the said garbage dump satisfies the criteria laid-down in Schedule-I and Schedule-II of the Rules of 2016, which of course, is in addition to the other mandatory and statutory requirements.

29. As noted earlier the Respondent No.1 is using the said site as a garbage dump for last so many years. Even under the Rules of 2000 neither the Respondent No.7 nor Respondent No.3 has taken any steps to find out whether the said land qualifies the specifications for landfill / solid waste disposal sites under Schedule III of the Rules of 2000. In Writ Petition No. 1740 of 1998, this Court had in the context of 2000 Rules, by an order dated 2TM April, 2013 issued various directions to the Local Authorities throughout the State of Maharashtra. Now that the Rules of 2016 are in place, it is mandatory for the Respondent No.1 to strictly abide by the Rules of 2016. The Respondent No.3 Corporation also being a Local Authority within whose limits the garbage of Respondent No.1 is dumped is duty bound to ensure strict compliance of the Rules of 2016.

37) The Division Bench thereafter proceeded to issue following directions in para-30 of the judgment, which read thus:

30. In this view of the matter the following directions are issued:

(i) The Respondent Nos. 7 & 8 are directed to ensure strict compliance of the Rules of 2016 by the Respondent No.1.

(ii) The Secretary-in-charge of the Urban Development Department of the Respondent No.7 to decide whether the said garbage dump is a suitable land within the meaning of Rules 11 and 12 and Schedule I of the said Rules of 2016. This decision be taken within a period of 6 months from the date of communication of this order.

(a) While arriving at this decision the Secretary-in-charge of the Urban Development Department should afford necessary

opportunity of making representation and hearing to the Respondent Nos.1, 3 & 8 and the Petitioner.

(b) In the event Respondent No. 7 notice that the site (garbage dump) has exceeded its capacity, the same shall be closed down as per the procedure under the said Rules of 2016.

(c) In the event an adverse order to the Respondent No.1 is passed, the said order shall not be acted upon for a period of 16 weeks from the date of communication of the said order.

(d) All contentions of the Respondent No.1 are kept open and we shall not be understood to have expressed any opinion on the merits of the controversy.

(iii) In the event the land on which the garbage dump is situate is found to be suitable, the criteria for improvement of the existing landfill / solid waste disposal site in accordance with the specifications laid down in Schedule-I and/or Schedule-II to the Rules shall apply and the development of the facilities at the said site shall be in accordance with the criteria provided in Schedule-I and/or Schedule-II. The Respondent Nos. 3, 7 & 8 shall ensure strict compliance by Respondent No.1 as mandated by Rule 11 of the Rules of 2016.

(iv) The Respondent No.1 shall make an application / submit a fresh proposal for authorization to the Respondent No.8 in accordance with the Rules of 2016 within a period of 4 weeks from today.

(v) The Respondent No.8 is directed to examine the proposal for authorization so submitted by the Respondent No.1 and make inquiries to ensure that the said proposal / application is in strict conformity with the Rules of 2016.

(vi) The Respondent No.8 is directed to obtain consents and views of other agencies as contemplated by Rule 16(d) of the Rules of 2016 while examining the said proposal.

38) Thus, while disposing of Writ Petition No. 96/1999 this Court held that PMC, within whose jurisdiction the dumping site is located, had not taken any steps to find out whether the land qualified the specifications for land fill/solid waste disposal site under Schedule-III of Rules of 2000. This Court then held that since SWM Rules 2016 came in force, it became the duty of PCB to ensure strict compliance thereof. This Court therefore directed the Secretary, UDD to decide whether the garbage dump site is suitable land within

the meaning of Rules 11 and 12 and Schedule-I of SWM Rules, 2016, after grant of opportunity of hearing to the concerned parties. It was further directed that in the event of the State Government noticing that the dumping site had exceeded its capacity, the same was directed to be closed down as per the procedure under SWM Rules, 2016. This Court further directed that in the event the garbage dump site was found to be suitable, the criteria for improvement of existing land fill/solid waste disposal site under Schedules-I/II of the SWM Rules, 2016 would apply and development of facilities at the said site were directed to be in strict compliance with the criteria prescribed in Schedules-I/II. PCB was directed to make an application for fresh authorisation to MPCB in accordance with the SWM Rules, 2016. In the event of grant of authorization MPCB was directed to monitor the garbage dumping facility.

39) It appears that Petitioner in Writ Petition No.96/1999 had filed an application for speaking to the minutes of order dated 20 July 2016 and had sought a specific direction for maintenance of *status-quo* by not undertaking any new activity or construction of processing units or to enter into any third party interest/agreement in respect of the dump site till all directions issued in para-30 of the order were complied with. The prayer for speaking to the minutes of the order dated 20 July 2016 was however rejected by the Division Bench by order dated 8 August 2016. It appears that the said Petitioners challenged the order passed by this Court on 20 July 2016 before the Hon'ble Supreme Court by filing SLP (C.) No. 12529/2018. When the Supreme Court expressed disinclination to entertain the petition, the Petitioner therein expressed that a Contempt Petition would be filed in the High Court. Recording the

said statement, the SLP was dismissed vide order dated 18 May 2018. It appears that Contempt Petition No. 33/2020 is accordingly filed by Petitioner in Writ Petition No. 96/1999, which is reportedly pending. However the main grievance in the Contempt Petition was about failure of the State Government to take decision as directed by this Court in the Order dated 20 July 2016. As observed above, the Secretary UDD has passed order dated 11 September 2018 towards implementation of directions of this Court.

D.3 AUTHORISATION BY MPCB

40) In accordance with directions issued by this Court, PCB applied for fresh authorisation under the SWM Rules, 2016 to MPCB. On 16 July 2018, MPCB granted authorization to set up and operate processing facility at the concerned site upto 31 December 2019. It is common ground that the said authorisation has been renewed from time to time and is still in force. It must also be observed that the authorization granted by MPCB on 16 July 2018 has not been challenged in the present petitions.

D.4 ORDER PASSED BY PRINCIPAL SECRETARY, UDD

41) In pursuance of order passed by this Court in PIL No. 96/1999 it appears that site visit was made on 17 August 2018 by the officials of UDD, PMC, PCB, MPCB, representatives of Hadapsar Industrial Group. Additionally, PMC submitted its report to Secretary, UDD on 3 July 2018. PCB also submitted its report dated 2 July 2018. A hearing was conducted by Principal Secretary UDD on 8 August 2018. During the course of hearing, representatives of PCB, PMC, MPCB as well as Petitioners canvassed their respective

contentions. Based on the hearing, Principal Secretary, UDD issued certain instructions. Further hearings were conducted on 13 August 2018 and 4 September 2018. Executive Director of Swachh Maharashtra Abhiyan Directorate submitted technical report dated 30 August 2018. The report indicated that out of total land admeasuring 28 acres, the untreated garbage was being dumped in land admeasuring 18 acres, the volume of dumped garbage was 1.5 to 2 lakh tons. It was recommended that dumping of mixed garbage needed to be discontinued considering the industrial belt adjoining the dumping site. Instead scientific processing method of bio-mining/capping was recommended in respect of dumped garbage. It was observed that remaining 10 acres land across the road, facilities were available for vermification but the same was lying unused. It was recommended that processing of garbage by use of composting technology be carried out in the said 10 acre land.

42) After considering the reports, observations during site visits and submissions canvased by various parties, the Secretary, UDD passed order dated 11 September 2018 and issued following directives:

In accordance with the Order dt. 20.7.2016 of the Hon'ble High Court in the Writ Petition No. 96 of 1999, Hadapsar Industrial Estate Environment Group V/s Govt. of Maharashtra and others regarding the Garbage Depot of the Pune Cantonment Board within the limits of Pune Municipal Corporation, the reports received, the observations during actual site visit, the submissions made during the hearing by all concerned and after the hearing, representations given by the Petitioners and the Technical Report given by the Swachh Maharashtra Abhiyan, Directorate in accordance with the Solid Waste Management Rules, 2016 and after considering all above aspects, the decision has been taken as under :-

1. For the Pune Cantonment Board's solid waste management, 28 Acres land is presently being used and as per the provisions of Solid Waste

Rules, 2016 in the present circumstances, it would be proper to use the same for processing the solid waste.

2. The Maharashtra Pollution Control Board has given an Authority letter to the Pune Cantonment Board's garbage depot for processing solid waste and re-user as upto 31.12.2019. The Cantonment Board is bound to comply/observe all the terms and conditions stated by the Maharashtra Pollution Control Board.

3. Out of the total 28 Acres of garbage depot land, in respect of the old accumulated garbage in the 18 Acre land, the scientific processing is essential as per the Solid Waste Management Rules 2016, Sch. 1 (j). For the purpose, after doing bio-mining and capping by scientific methods, **the said land should be closed for dumping mixed garbage.** As stated above, the accumulated old garbage in the said 18 Acres land be disposed off by the said scientific methods. **As such, the mixed garbage should not be dumped in open in the said land.**

4. Considering the extent of garbage collected from the Pune Cantonment Board area, in the **10 Acre land on the other side of the road, composting (vermiculture manure project or pit composting) be done out of the wet garbage.**

5. On the Garbage Depot land, the following matters are Notified for the Development:-

A) Within the territorial jurisdiction of the Cantonment Board, whatever garbage is generated should be segregated 100% at each home (House to House) and the collection and transport thereof would be binding.

B) Within the territorial jurisdiction of the Cantonment Board the option be exercised to get the bio-degradable garbage processed by de-centralised methods.

C) A segregation centre be raised for processing the non-biodegradable garbage and the dry garbage be sent for re-user.

D) All balance residue garbage which cannot be processed by any means or re-usable anymore be transported to the Scientific Landfill Site.

6. Upon consideration of the fast growing urban residential projects and industrial area around the garbage depot land used by the Cantonment Board and upon considering the necessity of the long term planning and the future re-thinking of the user of the said garbage depot land, **the Cantonment Board must finalize a permanent alternative land within a period of one year.**

7. The processing of the solid waste dumped / accumulated at the garbage depot land, the processing of future incoming of solid waste by composting, the segregated transport of garbage and related all matters must be activated/ completed within a period of 3 months.

43) Thus, in his order dated 11 September 2018, Secretary, UDD held that the land admeasuring 28 acres was suitable for being used for processing of solid waste. Use of land for dumping of garbage was directed to be discontinued. Already dumped garbage on 18 acre land was directed to be disposed of by use of scientific methods. After such disposal, dumping of garbage on such land was directed not to be undertaken. In respect of remaining 10 acres land, direction is issued for composting of wet garbage (*vermiculture manure project or pit composting*). Directions are also issued for 100% segregation at the time of door-to-door collection of garbage. In respect of garbage generated in the jurisdiction of PCB, option is directed to be explored for processing of biodegradable garbage by decentralized method. For non-bio-degradable garbage, segregation center was directed to be setup and dry garbage was directed to be sent for re-use. The garbage, which is incapable of being processed/reuse, has been directed to be transported to scientific land fill site.

44) This is how Secretary, UDD permitted use of entire 28 acres of land for processing of garbage both by PCB as well as PMC. The contention of Petitioners that the Secretary, UDD has adjudged the said land to be unsuitable for dump site is nothing but skewed and myopic reading of the Order. Though it is true that the land at the site can no longer be used for dumping of mixed garbage, the order permits use of the land for waste processing activities. Therefore mere prohibition on direct dumping of mixed garbage does not mean that use of the land for processing of the garbage is directed to be discontinued by Secretary, UDD. What is directed by order dated 11 September 2018 is to dispose of all dumped garbage in 18 acres land

by scientific means and not to dump any fresh garbage in that portion of the land. For balance 10 acres land, direction is issued for composting of wet garbage (*vermiculture project or pit composting*). The above two directions relating to land admeasuring 18 acres and 10 acres is to be read alongwith the direction in Clause 11, under which the entire 28 acres land is found suitable for solid waste processing. Thus, combined reading of the directions Nos. 1, 3 and 4 by Secretary, UDD would indicate that the whole of dumping site comprising of 28 acres land is permitted to be used for processing of solid waste in accordance with SWM Rules, 2016.

D.5 PETITIONER'S PRAYER FOR SHIFTING OF WASTE PROCESSING FACILITIES FROM THE SITE :

45) Petitioners have strenuously relied on direction No. 6 of order dated 11 September 2018 in support of the plea of shifting of the garbage depot. In our view, the Secretary, UDD has merely expressed an opinion that use of the land at which garbage depot is currently being operated may have to be reconsidered in the future considering rapid development of the residential projects and industrial areas in the vicinity of garbage depot and therefore PCB will have to look for permanent alternate site within a period of 1 year. In our view, what is expressed in direction No. 6 is merely a need for exploration of alternate land and observations in para-6 cannot be treated as a direction for shifting of garbage depot. What is important however are the provisions of Rules 15 (i) and Rule 15 (zj) of the SWM Rules, 2016. Under Rule 15 (i), it is the duty of the local bodies to establish waste deposition centres for domestic hazardous waste and such facility needs to be established in a city or town in a manner that one centre is set up for the area of twenty square

kilometers or part thereof. Thus, as discussed above, the waste disposal centers need to be established not only within the city or town limits but there needs to be one waste disposal unit for every area of 20 sq. kms. it is a challenging task for municipal administrations to provide for large spaces required for setting up waste disposal facilities. For a city as large in size as Pune, which is spread across 514 sq. kms, provision of one waste disposal facility at a distance of 20 sq. kms is itself a challenge. From Affidavit-in-Reply filed by PMC it is apparent that the Hadapsar area, where the depot is located generates daily waste of 800 metric tons. When it comes to PCB, though its area is comparatively much smaller (*about 26 sq. kms*), there is statutory duty on PCB to provide for atleast one waste disposal facility. It is therefore incomprehensible that PCB and PMC can be directed to discontinue the existing waste processing and disposal facility located within the city limits and scout for alternate sites. Fortunately, a large chunk of land is already available which is being used for over a century for waste disposal. We see no reason to put the individual rights of the local residents to have garbage processing units away from their homes over the statutory obligations of PCB and PMC to provide for waste disposal facilities within city limits under the SWM Rules, 2016.

46) What must also be noted are provisions of Rule 15 (zj) of SWM Rules, 2016, which, far from directing shutting of existing old open dump sites, mandates exploration thereof for potential for bio-mining and bio-remediation. Bio-mining for solid waste management represents an innovative and eco-friendly approach to handle the increasing problem of waste accumulation, particularly in landfills. This method leverages biological processes to recover

valuable materials from solid waste, thereby reducing landfill mass, recovering resources, and minimizing the environmental impact of waste disposal.

47) The Order passed by the Principal Secretary UDD in fact had directed disposal of the dumped garbage by adopting scientific approach. After undertaking the bio-mining and bio-remediation process, we see no reason why the land should not be used for processing of daily waste generated in PMC and PCB areas in accordance with the provisions of the SWM Rules, 2016. The prayers of the Petitioners for shutting of waste processing facility and for shifting thereof to alternate site therefore cannot be granted and deserves to be rejected.

D.6 MEASURES TO BE TAKEN FOR OPERATION OF WASTE PROCESSING FACILITY AT CURRENT SITE

48) While discouraging the 'not in my backyard' syndrome, this Court is also mindful of the health hazards arising out of old open dump sites and waste processing units. Until advent of modern technologies for waste disposal, municipal solid waste was being dumped in a unscientific manner resulting in foul odour, toxic gases and dust thereby affecting the health of the nearby residents. This appears to be the exact reason why repeated litigations are initiated seeking shifting of the Hadapsar Garbage Depot. Therefore, while this Court is rejecting Petitioners' prayer for shifting of the waste processing units from the site, necessary directions need to be issued to PCB, PMC and MPCB to ensure that the impact of the waste handling facilities on the health of nearby residents is minimal.

49) As directed in order dated 11 September 2018 passed by Secretary UDD, dumping of mixed garbage at the site is no longer permissible. PCB and PMC can use the land for segregation of solid waste, though segregation activities are actually recommended at collection stage. The Order directs treating the solid waste scientifically by sending the dry garbage for reuse/recycling and sending non-dissolvable garbage to sanitary landfill site. If these steps are scrupulously implemented, the entire municipal solid waste arriving at the site would get eliminated under the three processes of i) composing of wet waste ii) recycle and reuse of dry waste and iii) transportation of non-biodegradable and unusable dry waste to sanitary landfill sites. Thus, ideally no amount of waste would remain stored/dumped at the concerned site. If PCB and PMC scrupulously follow provisions of SWM Rules, 2016 and the directions issued in order dated 11 September 2018, the same would not result in accumulation of waste, which is complained of by the Petitioners and the ill effects of accumulation of waste such as toxic gases, foul odour, dust, etc. affecting the health of nearby residents would be mitigated to a large extent.

D.7 MEASURES TAKEN BY PCB

50) PCB has filed Affidavit in Reply in PIL No. 75/2022, in which it has set forth the steps taken in pursuance of order dated 11 September 2018. It would be apposite to reproduce paras-17 to 23 of Affidavit in Reply as under:-

17. It may be stated that the Cantonment Board has tried its best and is complying with all the directions given by the Secretary, UDD as far as the 18 Acres' plot is concerned, which contain a legacy waste of 80,000 Metric Tons, the same has been bio-mined and scientifically capped in

2019 with ancillary works like the storm water drains, vent pipes for gas emissions, leached collection tanks, as a result of which the entire legacy waste now occupies only 2 Acres out of the 18 Acres. It may hereby mentioned that after the capping of the legacy waste and after the setting up of the plant to process the non-bio-degradable waste, it is necessary to construct sanitary landfills as per the Solid Waste Management Rules to make provisions for final disposal of the inert material (non- disposable material which cannot be further processed). It is for this purpose that the Board has entered into a joint venture project with the Pune Municipal Corporation to carry out bio-mining of the legacy waste which is the balance legacy waste remaining to be processed so that the Board will be able to re-claim the open land for the purpose of construction of sanitary landfill. Moreover, the entire project will be achieved within the same premises.

18. In the balance area of the larger 18 Acres plot, the Cantonment Board has through a contractor, M/s. Bhoomi Green Energy set up a non-bio-degradable mechanical segregation plant of 60 tons capacity per day in one acre which segregates and removes plastic, rubble, metal and the balance debris such as Mud, Muck and Debris considered collectively as rejects. The Rejects will be put in the sanitary land fill on the larger plot and the balance of the segregated material is converted into — (i) RDF (Refuse Derived Fuel), which is supplied to cement plants; and (ii) Compost, both of which are manufactured by plant. The resultant compost is used by the Cantonment Board for its own gardens, etc.

19. As far as the bio-degradable material and waste is concerned, the Board has constructed on the 10 Acres, 160 large concrete bins each having a capacity of 400 tons and measuring 150 ft. x 40 ft. Each of these bins takes about a month to fill and vermiculture process is used in these bins which takes about a month and half to two months to turn into compost which is used by the Pune Cantonment Board for its own gardens.

20. In addition to all this, the Board has in the final stage of entering into a joint venture with the Pune Municipal Corporation whereby it is proposed to augment the capacity of the Processing Plant which processes non-bio-degradable material from 60 tons to 160 tons for which an additional cost of Rs.7.39 crores is to be incurred. This would involve carrying out modification to the existing machinery of the plant to enhance the processing capacity. Further, the Rejects after processing of the non bio-degradable waste viz., debris, mud, muck, etc. will be transferred to the larger plot for construction of a sanitary land fill as per the solid waste management norms for which a further expenditure of Rs.8.21 crores will be incurred by the Pune Municipal Corporation. This sanitary landfill will cater to the disposal of the Rejects (debris, mud, muck, etc.) into plant of both the Pune Cantonment Board as well as the Pune Municipal Corporation from the Processing Plant of 160 MT. The said sanitary landfill will be utilized in the ratio of 70:30. 70 being the amount of Rejects from the Pune Municipal Corporation waste and 30 being the amount of Rejects from Pune Cantonment Board waste.

21. The process / items to be executed for construction of sanitary land fill are as under:

- (i) Excavation for foundation of 4.50 mtrs. depth approx.
- (ii) Filling of murrum;
- (iii) Supply and installation of geosynthetic clay liner;
- (iv) Supply and installation of 1.5 mm thick geo- membrane liner;
- (v) Supply and installation of non-woven geotextile;
- (vi) Providing and fixing polyethylene pipes;
- (vii) Lowering, laying and joining of HDPE pipe for draining water;
- (viii) Providing dry rubble stone pitching;
- (ix) Supply and fixing of leachate pump;

22. In order to undertake the sanitary landfill work, bio-mining work is required to be carried out at the trenching ground for processing legacy waste and on the accumulated waste which is occurred due to the timeline between the completion of the scientific land fill and the time period before the completion and commissioning of the present processing land. The legacy waste of accumulated on the vermiculture site is also required to be bio mined for clearing the site. The estimated cost towards bio mining work will be incurred by the Cantonment Board about Rs.7.60 crores.

23. In these circumstances, it is submitted that the Cantonment Board has been faithfully following all the directions given by the Secretary, UDD on how the land was to be used for processing the solid waste and the land is no longer being used for dumping mix garbage.

51) We have gone through the Affidavit filed by PCB which indicates that it is no longer using any portion of the 28 acre plot for dumping of mixed garbage. It has already bio-mined and scientifically capped the legacy waste earlier dumped on 18 acre land and steps taken by it has ensured that the legacy waste is now only on 2 acre land. The balance land is now being used for waste processing plants by engaging a contractor where 60 tons of waste is treated daily. It has collaborated with PMC for setting up a sanitary landfill site. It is also in process of augmenting the processing unit by increasing the capacity to 160 tons.

D.8 MEASURES TAKEN BY PMC

52) PMC has filed Affidavit in Reply in Writ Petition No. 4794/2025, in which it is pointed out that Municipal Corporation is spread across area of 514 sq. kms generating 2400 metric tons of solid waste everyday. PMC has 15 wet processing plants in different places in the city. PMC is currently operating wet processing facility such as Waste Transfer Stations, Dry Waste Processing Plant and Composting Plant at the concerned site. While using the facility at Waste Transfer Station, the dry waste generated within the area of the site is transported through small bell/tipper trucks and then transferred to higher capacity vehicles such as Bulk Refuse Carriers (BRC) which carries the waste to various processing facilities/ plants and cement factories. That such Waste Transfer Station is being operated by Hadapsar garbage depot since 2000. Additionally, PMC is also jointly operating dry waste processing plant alongwith PCB having capacity of 150 metric tons of dry waste. In such Dry Waste Processing Plant 100 metric tons of waste generated in area of PMC and 50 metric tons of dry waste generated in PCB area is treated. PMC also operates Wet Waste Compositing Plant at Hadapsar garbage depot in which 200 metric tons of wet waste generated in nearby areas is composted to form manure/fertilizer within the cycle of 45 days. PMC in its Affidavit has also spelt out the measures already taken as well as measures proposed to be taken for the purpose of suppressing odour and dust emanating from the plant and vehicles. It is pleaded in para-(XII) to (XVIII) as under:

XII. I say that the allegation as made by the as to severity of the bad odor and respiratory disease is more of the exaggeration. Without prejudice to the same, I say that the PMC is taking

adequate measures for effective control of dust, air pollution and related issues in compliance with SWM Rules 2016.

XIII. I say that the Disinfectants using high pressure jetting machines is sprayed on the entire waste transfer station area including processing facilities premises for odour control, dust suppression and minimizing dust emissions from the waste handling and vehicles transfer. The spraying is done at the frequency of three times a day and act as measure for controlling odour and dust control in the area.

XIV. I say that the PMC has already initiated steps to enclose the said Composting Plant, which is presently partly open. I say that the work order has already been issued to do the civil work, which includes work of substantially covering/enclosing the said composting plant. Annexed hereto and marked as **Exhibit -1** is the copy of the Work Order dated 28.03.2025 issued in favour of the M/s Aryan Construction.

XV. The PMC has also issued the tender advertisement for carrying out the work of erection of fogging/misting system for the purpose of odour control. I say that in addition to the same the PMC is proposing to install the automatic chemical sprinkler at the Composting plant. Annexed hereto and marked as **Exhibit 2** is the copy of the tender advertisement dated 15.05.2025.

XVI. I say that in addition to the same, the PMC is also increasing the height of the boundary wall of the said plant from 12 feet to 16 feet. I say that these steps will help a long way in controlling the odour emanating from the Composting process. I say that these steps will also diminish the possibility of the birds hovering over at the said Site.

XVII. I say that the legacy waste earlier lying at the site (PCB area) in Hadapsar Industrial estate has been completely removed by scientific bioremediation/biomining process by Respondent No.1. I say that Approx 96000 metric tons of legacy waste has been biomined and 8 acres land has been reclaimed which has been used for SLF construction.

XVIII. I say that the existing waste transfer station and allied waste processing facilities in Hadapsar Industrial estate area being operated by PMC is in compliance with SWM Rules 2016 and has necessary approvals and authorizations by MPCB.

D.9 PETITIONERS' OBJECTION TO USE OF SITE BY PMC

53) Petitioners in WP No 4794 of 2025 have complained about PCB allowing PMC to dump its garbage at the concerned site. It is an admitted position that the concerned site is located within the limits of PMC and not in the territorial limits of PCB. From the Affidavit-in-Reply filed by PMC, it appears that the area around Hadapsar garbage depot generates about 800 metric tons of waste out of which 600 metric tons is dry waste whereas 200 metric tons is wet waste. The two local authorities- PCB and PMC have agreed to set up joint facilities for treatment of waste generated within their areas. The Affidavit filed by PMC indicates that in the Dry Waste Processing Plant operated by PMC at Hadapsar garbage depot, 50 tons of dry waste generated in PCB area is treated by PMC. It also appears that PMC and PCB have agreed to jointly set up sanitary land filling sites for dumping of dry waste which cannot be recycled.

54) PCB is a local authority for a relatively small cantonment area located within Pune City. The concerned site is outside the limits of PCB, but within the limits of PMC. Both local authorities are under statutory obligations to handle solid waste in accordance with the SWM Rules 2016. In such circumstances, PCB has permitted use of the land under its control for PMC to operate waste processing units, which also processes dry waste of PCB. Considering the geographical location of the two local authorities, they have collaborated for operation of some of the waste processing activities jointly. This joint operation has been going on for a considerable period of time. The Affidavit filed by PMC indicates that one of the facilities of Waste Transfer Stations is being operated by PMC at Hadapsar garbage depot since the year 2000. We do not find any

illegality in such arrangement between the two local authorities. Petitioners therefore cannot be permitted to raise objection for PMC processing its waste by setting up the processing facility at the concerned site of PCB.

D.10 NEED FOR ALTERNATE SITE FOR WASTE PROCESSING FOR PCB

^{III}
55) As observed above, direction No. (6) in the order dated 11 September 2018 expects PCB to look for alternate permanent site considering the rapid development of residential buildings and industrial units in the vicinity of garbage depot. We have already held that the same is not a mandatory direction to the PCB. We have expressed disinclination for directing shifting of the waste processing plants from the current site. We are therefore refraining ourselves from issuing any directions either to the State Government or to PCB to search for alternate location for operation of waste processing plants. Since rapid development is happening in and around Pune City including Pune Camp area, it would be for PCB, PMC and the State Government to take a decision in that regard. It appears that Pune City is spread across vast land area of 514 sq.kms and locating each and every waste processing plant outside the city limit may not be advisable considering the time taken for transportation of waste at far away places. As observed earlier, the SWM Rules 2016 required the waste processing units to be set up for each area of 20 sq. kms. It would therefore be not appropriate for this Court to make any observations about need for relocation of Hadapsar garbage depot to any alternate site. However, if any additional land is required for processing of waste or for sanitary land fill site, it would be for PCB and PMC to make a representation in that regard to the State Government.

56) In view of the observations in para No. 6 of the order dated 11 September 2018 being only recommendatory in nature, this Court is not inclined to issue any direction for implementation thereof. Even otherwise, those observations cannot be the basis for directing shifting of the current waste processing facility from Hadapsar Industrial Estate site.

D.11 SAFEGUARDS TO BE ADOPTED WHILE OPERATING WASTE PROCESSING UNITS AT THE SITE

57) The Principal Secretary, UDD has already directed adoption of various measures for treatment of solid waste in the plants at the site. MPCB, who is empowered to issue and give authorization for operation of plant has been directed by this Court to monitor the facilities and ensure compliance of the terms and conditions of authorization. Action is directed to be initiated in accordance with law for breach of any of the conditions.

58) The petitions do not seek implementation of order dated 11 September 2018 passed by the Principal Secretary, UDD, which ought to have been the case. On the other hand, the Petitions are aimed at ensuring complete closure of the garbage depot from the concerned site which is the reason why no attempt is made by them to seek relief for strict compliance with the conditions of order dated 11 September 2018. It would have also been ideal for the Petitioners to suggest measures for better processing of municipal solid waste in a scientific manner without causing any health hazards to the nearby residents. However, instead of suggesting any positive measures, the petitions are aimed at ensuring that the waste processing facility is

shifted in someone else's backyard. Be that as it may. Since the petitions essentially seek to espouse public cause, we deem it appropriate to issue necessary directions to both the local authorities to ensure strict compliance with the order dated 11 September 2018 passed by the Principal Secretary, UDD as well as the provisions of SWM Rules, 2016.

59) Controlling odorous gases and dust from waste processing facilities is crucial for both environmental and public health. It is the duty of PCB and PMC to ensure that the processing of the waste at the site has the least possible impact on the residents and industrial units in the locality. As new innovations are occurring in the areas of waste processing, all possible technology must be employed to suppress the odour, gases and dust emanating from the waste processing units. PMC has already implemented some measures like high jet spraying of the area every three hours to reduce the dust and odour. It has also proposed certain measures like covering the compost plant to suppress the odour. The PMC has also issued the tender advertisement for carrying out the work of erection of fogging/misting system for the purpose of odour control. PMC is proposing to install the automatic chemical sprinkler at the composting plant. It has also proposed to increase the height of boundary wall from 12 feet to 16 feet. These measures need to be implemented expeditiously both by PMC as well as by the PCB.

E. CONCLUSION

60) Considering the overall conspectus of the case and for the reasons recorded aforesaid, we are unable to grant the prayer of the Petitioners for shifting of waste processing facilities from the current

site. As observed above, operation of waste processing facilities at the site of Hadapsar Industrial Estate is in consonance with the SWM Rules, 2016 and also the order passed by the Principal Secretary, UDD on 11 September 2018. This Court infact does not appreciate repeated attempts being made for closure and shifting of the waste processing facility. As observed above, it appears that Suit No.2/1998 was filed seeking eviction of PCB from the site which has been dismissed and Appeal against the decree is pending. The second attempt was made by Hadapsar Industrial Estate Environment Group by filing Writ Petition PIL No.96/1999 in again which this Court did not grant the relief of shifting of the waste processing facilities from the concerned site. Thereafter, PIL No.75/2022 is filed by Hadapsar Industries Association followed by Writ Petition No. 4794/2025 once again seeking closure of waste processing facilities and shifting thereof to alternate site. The Principal Secretary, UDD has already concluded that the land is suitable for operation of waste processing facilities. The operations thereat can be conducted in accordance with the authorisation granted by MPCB by following the provisions of SWM Rules 2016.

F. ORDER

61) We accordingly proceed to pass the following order:

- (i) Prayer of the Petitioners for shifting of the waste processing facility currently operational at Hadapsar Industrial Estate to an alternate site is rejected.

(ii) PCB and PMC shall ensure that mixed solid waste is not dumped in any part of land admeasuring 28 acres at the site.

(iii) PCB and PMC shall ensure that the municipal solid waste transported to the site is processed and disposed of either by (a) composting of wet waste, (b) recycle and reuse of dry waste and (c) transportation of non-biodegradable and unusable waste to sanitary landfill site.

(iv) PCB and PMC shall take all necessary measures to suppress and control foul odour, toxic gases, dust etc. emanating out of waste processing facility at the site and for such purpose, adopt all necessary measures including modern techniques to ensure that the health of nearby residents is not adversely affected.

(v) MPCB shall ensure strict compliance with the conditions of authorization and provisions of SWM Rules, 2016 and shall take appropriate action in accordance with law if any of the conditions of authorization are violated by PCB , PMC or by their contractors.

(vi) It would be open for the PCB and PMC to make a representation to the State Government for identification and allotment of additional lands for operation of waste processing facilities. It would be for the State Government to take a decision in this regard in accordance with law.

62) With the above directions, both the petitions are disposed of.

[SANDEEP V. MARNE, J.]

[CHIEF JUSTICE]